

by in an account and we want to rescind those funds, then that is pretty straightforward. We direct the rescission of those funds and do not earmark it to a specific State. If we are going to start the game, though, of earmarking—which I believe is what this does—obviously there will be a lot of other Senators who believe in earmarks who will say I want my turn also. I do not happen to believe in earmarks, but some of my colleagues would say: Look, if you can do this for one State, you can do it for my State. So if every State can direct specific spending to their own State, then we are right back in the business of earmarking.

I will not necessarily speak to the purposes behind the change in the project, although it is pretty clear from newspaper articles out of Nevada that this money is going to be used for a road project. I will leave the defense of the policy to others. What I will say is that the provision without a shadow of a doubt meets the definition of an earmark under rule XLIV of the Standing Rules of the Senate. The bottom line is that the provision in the bill will direct Federal funds to a single State.

Rule XLIV of our standing rules, the Standing Rules of the Senate, as we all know, defines what is a congressionally directed spending item. I will quote that rule:

... a provision or report language included primarily at the request of a Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State—

It goes on to say:

locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

There was a reason why that language is included in that rule and it is what is happening here. If you could simply direct funds to your State, then, as I said previously, we are back in the earmarking business.

Furthermore, the bill before the Senate was written based on the understanding that there would be no earmarks. Everybody is running around saying there are no earmarks in the bill. Everybody has been very public about saying that. That posture was well received. It was commended, in fact. It was commended, in my judgment, in part because many understood that a highway bill that included earmarks simply would not pass. In other words, a “no earmark” policy was necessary to get this bill done.

So at the moment I am very concerned that we will have damaged the Senate bill, our legislative process, and hurt the chances of a highway bill getting done. I think the highway bill makes a lot of sense for our country, but we have to solve this kind of problem. I cannot support the bill with an

earmark for one State, the State of Nevada.

Even the President of the United States has weighed in on this. He has taken a very strong stand. He said, “If a bill comes to my desk with an earmark inside, I will veto it.”

This highway bill is far too important for us to jeopardize its passage or to invite a veto by the President, just because the provision is very hard to find and buried at page 463.

I think there is a way to move forward on the highway bill, at least as far as this is concerned. I think our State and local leaders are hoping we pass a highway bill. There are a lot of good things that could happen with it, but this has to come out of the bill. This needs to change, and my hope is the Senate will agree to my amendment to do just that.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRANKEN). Morning business is now closed.

#### EXECUTIVE SESSION

#### NOMINATION OF ADALBERTO JOSE JORDAN TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The bill clerk read the nomination of Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided and controlled in the usual form.

Mr. LEAHY. Mr. President, today the Senate will finally vote on the nomination of Judge Adalberto Jordan of Florida to fill a judicial emergency vacancy on the Eleventh Circuit. Finally, after a 4 month Republican filibuster that was broken by an 89 to 5 vote on Monday, and after Republicans insisted on two additional days of delay, the Senate will have a vote.

Judge Jordan is by any measure the kind of consensus nominee who should have been confirmed after being reported unanimously by the Judiciary Committee last October. Despite the strong support of his home State Senators, Senator NELSON, a Democrat, and Senator RUBIO, a Republican, Republicans filibustered and delayed this confirmation for months. They prevented the Senate from voting on Judge Jordan's nomination in October, in November, in December, and in January. And it should not have taken another 2 days after the Senate voted overwhelmingly to bring the debate to a close to have this vote.

This superbly-qualified nominee will be the first Cuban-American on the Eleventh Circuit. His record of achievement is beyond reproach. The only statements about this nominee—by me, by Senator NELSON and even by the Republican Senators who spoke—described him as qualified and worthy of confirmation. The stalling, the delays, the obstruction, even the votes against ending the filibuster were all about something else, some collateral issue. They should not have marred this process and complicated this nomination. They should not have delayed this moment when Cuban Americans will see one of their own elevated to the second highest court in the land. I appreciate the attention that Hispanics for a Fair Judiciary and the Hispanic National Bar Association have given this important nomination. Their work will finally be rewarded, as well.

The junior Senator from Kentucky held up this nominee for his own purposes—purposes having nothing to do with the nominee. He did it in order to gain leverage to force a vote on an unrelated and ill-advised amendment. You cannot amend a nomination. So now that he has forced the Senate into 2 days of inactivity, the Senate will finally vote.

As I said yesterday, the goals of Senator PAUL's amendment are already the law of the land. The new conditions on military aid for Egypt, which I wrote with Senator GRAHAM, passed by an overwhelming bipartisan majority and were signed into law just 2 months ago without Senator PAUL's support. Those conditions require certification by the Secretary of State that the Egyptian military is supporting the transition of civilian government and protecting fundamental freedoms and due process. Unlike Senator PAUL's proposed amendment, these conditions again, already the law—do not pose a risk of backfiring on us and on our ally Israel.

Moreover, once this misguided obstruction is ended and the Senate has voted to confirm Judge Jordan to fill the judicial emergency vacancy on the Eleventh Circuit, the Senate will turn back to its work on the surface transportation bill. As Senator BOXER said this morning, that bipartisan bill can save or create 2.8 million jobs. That, too, should be a priority, not a pin

cushion to attach ill-advised foreign policy amendments.

This is the kind of obstruction that is hard to explain to the American people. A Florida lawyer and former prosecutor was quoted in the Orlando Sentinel saying: "It's a good reason why Congress' approval rating is 10 percent." He continued: "Politics should have no place in the nomination and confirmation of excellent jurists like Judge Jordan. Shouldn't happen. We need qualified judicial nominees on the bench, big time." It is the kind of senseless obstruction that comes at a great cost to the millions of Americans living in Florida, Georgia and Alabama who are affected by the judicial emergency vacancy on the Eleventh Circuit. I am glad that they will finally have a judge to fill that vacancy.

I am certain that all Americans will be well served by Judge Adalberto Jordan. He has proven through his long career on the bench and as a prosecutor to be a public servant of tremendous quality and integrity. I congratulate Judge Jordan, his family, Senator NELSON, Senator RUBIO and the people of Florida on his confirmation today.

Mr. LEAHY. Mr. President, I am advised that there is nobody else who wishes to speak, so I ask unanimous consent to yield back any time and ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of Adalberto Jose Jordan, of Florida, to be United States Circuit Judge for the Eleventh Circuit?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 19 Ex.]

YEAS—94

Akaka	Cochran	Inouye
Alexander	Collins	Isakson
Ayotte	Conrad	Johanns
Barrasso	Coons	Johnson (SD)
Baucus	Corker	Johnson (WI)
Begich	Cornyn	Kerry
Bennet	Crapo	Klobuchar
Bingaman	Durbin	Kohl
Blumenthal	Enzi	Kyl
Boozman	Feinstein	Landrieu
Boxer	Franken	Lautenberg
Brown (MA)	Gillibrand	Leahy
Brown (OH)	Graham	Levin
Burr	Grassley	Lieberman
Cantwell	Hagan	Lugar
Cardin	Harkin	Manchin
Carper	Hatch	McCain
Casey	Heller	McCaskill
Chambliss	Hoeven	McConnell
Coats	Hutchison	Menendez
Coburn	Inhofe	Merkley

Mikulski	Risch	Tester
Moran	Roberts	Thune
Murkowski	Rockefeller	Udall (CO)
Murray	Rubio	Udall (NM)
Nelson (NE)	Sanders	Warner
Nelson (FL)	Schumer	Webb
Paul	Sessions	Whitehouse
Portman	Shaheen	Wicker
Pryor	Shelby	Wyden
Reed	Snowe	
Reid	Stabenow	

NAYS—5

Blunt	Lee	Vitter
DeMint	Toomey	

NOT VOTING—1

Kirk

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Rhode Island.

#### MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WHITEHOUSE. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. SANDERS. Mr. President, I ask unanimous consent that I and other Senators, including TOM UDALL and the Presiding Officer and Senator WHITEHOUSE, be permitted to speak for the next 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GLOBAL WARMING

Mr. SANDERS. Mr. President, I fear one of the major issues that not only faces our country but faces our planet is not getting the kind of serious debate and discussion it needs in the Senate; that is, the planetary crisis of global warming, what its impact is having now in our country and in other countries throughout the world and how, in fact, we can address this enormous crisis.

I understand politically some of my colleagues do not believe global warming is real and they do not think there is much our country should or can do to address this crisis. I understand that. But with all due respect, I strongly disagree with that position and believe, in terms of the future of our planet, the lives of our kids and our grandchildren, that is a very wrong-headed position and could lead to enormous problems for our country and for the rest of the world.

But the truth is, the real debate about global warming is not whether other Members of the Senate disagree with me or Senator UDALL, the issue is what the scientific community, the people who have studied this issue for years, in fact, believes. As I think the Presiding Officer understands, the overwhelming consensus in our country and around the world from the scientific community is, A, global warming is real, and, B, to a very significant degree global warming is manmade.

That is not just my position, not just what I say or what other Members of the Senate say. Far more important, it is what leading scientists all over the world are saying.

The National Academy of Sciences in this country, joined by academies of science in the United Kingdom, Italy, Mexico, Canada, France, Japan, Russia, Germany, China, India, Brazil, and South Africa, has said—this is their statement, the National Academy of Sciences—“. . . climate change is happening even faster than previously estimated" and the "need for urgent action to address climate change is now indisputable."

It is fine for radio talk show hosts to have their view. Frankly, I think it is more significant that the scientific community from all over the world is in agreement. Let me repeat what they say: “. . . climate change is happening even faster than previously estimated" and the "need for urgent action to address climate change is now indisputable."

Mr. President, 18 scientific societies, including the American Geophysical Union and the American Association for the Advancement of Science, said:

Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research demonstrates that the greenhouse gases emitted by human activities are the primary driver.

That is not I; that is 18 scientific societies, including the American Geophysical Union and the American Association for the Advancement of Science.

They continue:

These conclusions are based on multiple independent lines of evidence, and contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science.

But it is not only the scientific community. It is agencies of the U.S. Government that have to deal or worry about the impact of global warming.

The Department of Defense says: